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Attorneys for Plaintiffs,
UMG RECORDINGS, INC.; ARISTA RECORDS
LLC; ELEKTRA ENTERTAINMENT GROUP
INC.; CAPITOL RECORDS, INC.; LAFACE
RECORDS LLC; SONY BMG MUSIC
ENTERTAINMENT; and MOTOWN RECORD
COMPANY, L.P.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UMG RECORDINGS, INC., a Delaware
corporation; ARISTA RECORDS LLC, a
Delaware limited liability company; ELEKTRA
ENTERTAINMENT GROUP INC., a Delaware
corporation; CAPITOL RECORDS, INC., a
Delaware corporation; LAFACE RECORDS
LLC, a Delaware limited liability company;
SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; and MOTOWN
RECORD COMPANY, L.P., a California
limited partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

E-filing

RMW
RS

CV 07

CASE NO.

6033

**EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY**

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant , who is
 8 being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant , without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant , Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

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 26 ¹ Because Plaintiffs do not yet know Defendant's true identity, Plaintiffs are unable to personally serve
 27 Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of Court pursuant to Fed. R. Civ. P.
 28 5(b)(2)(C) ("If the person served has no known address, [service under Rule 5(a) is made by] leaving a copy with the
 clerk of the court.") and will serve Defendant's ISP with a copy of this motion. Additionally, if the Court grants this
 motion, Plaintiffs will ask the ISP to notify the Defendants of the subpoena and provide Defendant with an opportunity
 to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

3 Dated: November 29, 2007

HOLME ROBERTS & OWEN LLP

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5 By: 

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

6 UMG RECORDINGS, INC.; ARISTA
7 RECORDS LLC; ELEKTRA
8 ENTERTAINMENT GROUP INC.;
9 CAPITOL RECORDS, INC.; LAFACE
10 RECORDS LLC; SONY BMG MUSIC
11 ENTERTAINMENT; and MOTOWN
12 RECORD COMPANY, L.P.
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